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FILE NUMBER

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January 25, 1994

VIA HAND DELIVERY

Robert M. Pepper, Chief  
Office of Plans and Policy  
Federal Communications Commission  
Room 822  
1919 M Street, N.W.  
Washington, D.C. 20554

RECEIVED

JAN 25 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Ex Parte Presentation  
(two copies filed with Secretary's Office)  
Implementation of Sections 3(n) and 332  
of the Communications Act, General Docket No. 93-252

Dear Bob:

The purpose of this letter is to summarize the points made in the meeting which Steve Muir, President of ComTech Mobile Telephone Company, Peter Casciato, counsel for the California Cellular Resellers Association, Inc., and I had with you on January 18, 1994. I apologize for the delay in getting this to you. Unfortunately, the weather and the Mayor's edict intervened.

First, the Commission's Report and Order should explicitly recognize that cellular resellers are providers of commercial mobile service. Indeed, cellular resellers currently constitute virtually the only competition to the FCC-licensed cellular carriers. Cellular resellers have approximately 100,000 subscribers in the State of California alone. The Commission's Report and Order should account for that reality.

Second, the Commission's proposal in Paragraph 71 of the Notice of Proposed Rulemaking to preempt all State interconnection orders could undermine rather than advance competition in the provision of commercial mobile service. As you know, the California Public Utility Commission issued a decision which provides cellular resellers with a right of interconnection. The cellular resellers' right to

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Robert M. Pepper, Chief  
January 25, 1994  
Page 2

interconnection will obviously enhance their ability to compete with the FCC-licensed cellular carriers. The benefits of the switch to resellers' customers are described in the attached excerpt of testimony which Ralph L. Widman gave in the California PUC proceeding. While the FCC may want to preempt State decisions which impose a more restrictive interconnection policy than the Commission, the Commission's proposal to preempt more expansive State interconnection orders is inconsistent with the Commission's avowed intention of promoting competition in the provision of commercial mobile services.

Third, in making any decision on interconnection or any other matter affecting cellular resellers, the Commission should not assume that State regulation in California or elsewhere has resulted in artificially higher rates for subscribers. Attached to this letter are three documents which address that unjustified claim: a letter from the Division of Ratepayer Advocates of the California Public Utilities Commission to Senator Herschel Rosenthal, Chairman of the State Senate Committee on Energy and Public Utilities, dated February 17, 1993; a Notice of Ex Parte Communication filed with the California Public Utilities Commission on December 6, 1993 by the Cellular Resellers Association, Inc.; and a fact sheet from the National Cellular Resellers Association produced in the spring of 1993 which shows that rates have increased more in unregulated markets than in regulated markets.

If you have any questions or need additional information, please let me know.

Sincerely,

KECK, MAHIN & CATE

Attorneys for  
Cellular Service, Inc.

By 

Lewis J. Paper

cc: David Nelson  
Steve Muir  
Peter Casciato, Esq.

W-6

Cellular Service, Inc.  
Testimony of Ralph L. Widmar  
Reseller Switch Proposal  
August 30, 1991  
I.88-11-040

1Q. Please state your name, title, and business address.

A. My name is Ralph L. Widmar. I am a partner in Network Intelligence, which is a telecommunications management consulting firm I founded in 1985. My business address is 460 Alma Street, Suite 100, Monterey, CA 93940.

2Q. Please give us a brief resume of your educational background and professional qualifications.

A. I graduated from the University of Colorado in 1978 with a degree in Communications. I went to work for Mountain Bell as a communications consultant and held a variety of positions with Mountain Bell and AT&T. My last position with Mountain Bell was a corporate product and market manager in the Public Services area. I also worked with AT&T and Bell Laboratories on a variety of projects.

3Q. What other work experience do you have in the field of telephony?

A. Upon leaving the Bell system in 1982, prior to divestiture, I became involved with a long distance telephone company that was involved in the resale of and shared use of WATS lines. As a regional vice president of operations, it was my function to coordinate the installation of tandem switching equipment and of telecommunications transmission facilities. I also designed networks and worked on billing systems. I subsequently moved to Monterey, CA in 1984 and became the Operation Manager for Telemarketing Communications of Monterey, a

long distance reseller. In 1985, I became an independent consultant for both interexchange carriers and local exchange carriers.

4Q. On whose behalf are you appearing in this proceeding?

A. I am appearing on behalf of Cellular Service, Inc. ("CSI").

5Q. What is the purpose of your testimony in this proceeding?

A. I will discuss various features and service offerings that CSI will be able to provide if it is permitted to interconnect its own switch with the Mobile Telephone Service Offices ("MTSOs") of the radio-based cellular carriers and the Public Switched Telephone Network. These services are currently unavailable to the end-user in part because they may be too cumbersome or processor-intensive for the radio-based carriers to provide.

I will also explain how the introduction of the CSI switch can alleviate technical difficulty and economic inefficiency currently associated with roaming by cellular end-users.

6Q. What are some of the features and services CSI will be able to provide as a switch-based resale carrier?

A. The flexibility introduced into the cellular system through CSI's operation of its own switch will enable CSI to provide innovative features and services which can be variously modified to address the needs of individual subscribers. For example, these services and features could include:

Limited Calling Areas. For a reduced monthly rate, CSI could screen calls originated from a cellular telephone to allow completions of calls only within a local calling area, or a calling area that was specified by the customer, or only to particular telephone numbers.

Incoming Call Screening. Only calls from telephone numbers on an "approved" list of numbers (designated by the subscriber and resident in the database of the CSI switch) would be forwarded to the subscriber's cellular telephone.

Distinctive Call Signaling. Calls from particular telephone numbers, resident in the database of the CSI switch for a specific CSI subscriber, can be programmed to signal the subscriber via distinctive tones of specific calling parties such as place of work and home.

Priority Call Waiting. Calls from designated telephone numbers resident in CSI's database would be routed to the cellular telephone directly, while calls from other parties would be routed to voice mail. This would enable the caller to only be interrupted by calls from these designated numbers.

Cellular Extension. A cellular telephone could become an extension of a telephone at the subscriber's office. When a call is placed to the telephone number of the customer's cellular telephone, the CSI could also simultaneously ring a telephone designated by the subscriber.

Cellular PBX. Extension of traditional telephone lines such as Private Branch Exchange ("PBX"), Business lines, and

Residential service into the cellular network can be provided by CSI, as a switch-based reseller. This service would allow a cellular subscriber to be reached by dialing a single number and having the call routed to the subscriber's office phone, car phone or hand-held portable phone.

Cellular Centrex ("CelTrex®") is an additional example of the extension of traditional telephone services that CSI could provide its customers. All of the same features that are now provided on a landline-based system can be provided on a wireless cellular system. CelTrex® can also be combined with the landline-based system to provide a complete communications system for the customer.

Voice Mail Enhancements. When a call is placed to a cellular telephone of a subscriber, and that call is forwarded to the voice mail box where a message is left, CSI could provide the appropriate signaling to telephone numbers specified by the user for message notification.

Dual-System Access. CSI subscribers would have no need to subscribe to service from both radio-based carriers within the same MSA to compensate for the uneven quality of service. Since the CSI switch would be connected to both carriers' systems, it could assign each subscriber a single unique number and switch any call through either carrier's cellular radio network.

Custom Directory Service. CSI would provide customer operator services for its subscribers. One example would be when a subscriber dials a telephone number for information, an

operator could not only inform the user of the desired telephone number, but give the user the option of placing a call to that number without hanging up or redialing.

Cellular Secretary. Using the same technology used to provide the above service, a subscriber could have access to a 24-hour secretarial service that would make travel, hotel and restaurant reservations, and give driving instructions in the local area. This would be an invaluable service for frequent travelers.

Multi-Line Hunting. A subscriber could have multiple cellular telephones that would continue to ring on sequential lines if the first line was busy, similar to the way in which office telephone systems operate.

7Q. Briefly, what are some of the practical problems presently encountered by cellular end-users when roaming?

A. Currently, roaming can be a cumbersome and complicated process. Depending upon the radio-based cellular carrier, a roamer is handled usually in one of four ways: (a) provided service without intervention, (b) provided first call but subsequent calls may or may not be denied, (c) calls are blocked and service is denied until carrier receives a valid form of payment, or (d) all access to the cellular system is denied.

Some radio-based cellular carriers serving areas that have heavy roaming between themselves will interconnect their switches to provide roamers service without intervention. The availability of this "seamless" roaming is limited because the

switches serving the areas must be from the same manufacturer. In addition, the switches must be interconnected with dedicated voice and data circuits.

The most common method of handling roamer traffic today is to allow the first call and then the switch requests a verification of the roamer's status from its home carrier. This involves the use of an external database service known as Positive Roamer Validation ("PRV"). The carrier's switch has a data circuit (anything from dial-up to dedicated) to the PRV service and after the first call is placed, it sends the roamer's identification to the service for validation. This process can take up to an hour or longer to complete, during which the radio-based carrier will usually deny any further service. Moreover, the radio-based carriers normally only provide this service to roamers of like carriers, that is, A block to A block, and B block to B block.

CSI subscribers are hampered by the fact that the only roaming agreements are between radio-based carriers. In addition, several different methods are used to validate and carry subscriber calls. Occasionally CSI subscribers are refused roaming because of problems from one radio-based carrier with another.

8Q. How will the CSI switch affect the current roaming process?

A. CSI will directly connect to switches where it is economically feasible and where its customers have the greatest



amount of roaming needs. By direct connection to radio-based cellular carriers in other cities, where CSI is also a reseller, each of CSI's NPA-NXX codes will be programmed into the radio-based cellular carrier's switch and forwarded to CSI for processing. CSI expects that it would provide greater efficiencies and be charged the same airtime rate for every minute used by each of its customers, based locally or not, thereby eliminating current onerous roaming charges.

9Q. Are there other services that a switch-based cellular reseller can offer in addition to those already mentioned?

A. Most of the services outlined in this testimony are related to features and functions that occur prior to or during call processing. By operating its own switch, CSI could also enable the subscriber to design its own billing format, using a variety of custom billing options. These would include:

Client-Code Billing. A user could enter a two- or three-digit code with each telephone number that is dialed from the cellular telephone, and charges for that call would accrue to the "account" of the client to be billed.

Immediate Billing. This refers to the capability of the CSI switch to output call detail records in real time. This would include both financial verification of calls in addition to unit verification. These records could be made available to customer service representatives, so that a customer who experiences a poor quality call can receive immediate credit. This would also allow customers the ability to establish call limits that would

**DRA**California Public Utilities Commission  
**DIVISION OF RATEPAYER ADVOCATES**Phone (415) 703-2061  
FAX (415) 703-1981505 Van Ness Avenue  
San Francisco, CA 94102-3298EDMUNDO J. TEXEIRA  
Director**SUPPLEMENTAL  
TESTIMONY**

February 17, 1993

The Honorable Herschel Rosenthal  
Senate Committee on Energy and Public Utilities  
State Capitol, Room 2035  
Sacramento, CA 95814

Dear Senator Rosenthal:

Enclosed is the Division of Ratepayer Advocates' (DRA's) analysis of the differences between McCaw Cellular's Exhibit E to Wayne Perry's testimony before the Senate Committee on Energy and Public Utilities, January 12, 1993, and DRA's Table 1 to my testimony on the same date. I apologize for the delay in providing DRA's analysis, but as you know, McCaw Cellular did not provide the information necessary for DRA to complete its analysis until February 5, 1993.

In response to your request that DRA explain the differences between the cellular service rates calculated by DRA and those calculated by McCaw, I have enclosed a table comparing McCaw's and DRA's calculated cellular rates. DRA and McCaw used similar but not identical assumptions in deriving their cellular rate tables. The differences in assumptions are discussed below.

**1. Choice of Carriers**

DRA's original analysis included cellular rates for both the wireline and the non-wireline carrier in each city surveyed. McCaw looked solely at the non-wireline carriers' rates. In many cases, the wireline carriers' rates were higher.

**2. Choice of Markets**

While DRA and McCaw surveyed some of the same markets, there are notable absences from McCaw's list of markets. McCaw did not include Sacramento, California nor Boston, Massachusetts in their list of regulated markets. DRA included these two markets and found their rates to be significantly less than rates in many regulated and unregulated markets.

**3. Choice of Rate Plan**

McCaw's table presented cellular rates calculated from "the most economical rate plan currently available in each market to an individual end user." The plans McCaw presented assume that the customer knows his or her monthly calling pattern. In fact,

when a DRA analyst contacted one cellular service provider, she was told that plans which included free airtime were primarily for existing users who had developed a measurable usage pattern. Many of the plans that McCaw presented included 30 to 150 minutes of free airtime. These plans also often require a minimum one year contract period with substantial penalties, some as high as \$250, for early termination. DRA has indicated which rate plans require such a commitment in the attached tables. DRA's cellular rates table presented rates that were from a carrier's basic or standard rate plan in each market. Typically the basic plans are available on a regular basis, do not include any free minutes of airtime and do not require a one-year commitment. The basic plans are more appropriate for new customers who have not established a predictable usage pattern.

#### **4. Amortization of Activation Fee**

In most cases, beginning cellular service requires payment of an activation fee. DRA's analysis revealed that these fees ranged from \$25.00 to \$75.00, but were generally identical within a given market. DRA included the activation fee in its analysis by amortizing the fee over 12 months. DRA believes that the activation fee is not insignificant and should be included in the analysis. The activation fee is significant in the short run and can influence whether a customer decides to continue service with his current carrier or switch to the other carrier in the market. McCaw's analysis fails to account for the one-time activation fee.

#### **5. Distribution of Peak/Off-Peak Minutes**

McCaw and DRA assumed that 80% of the 120 minutes of airtime would occur during peak hours and the remaining 20% during off-peak hours. The 80% peak and 20% off-peak allocation is considered the typical usage pattern. However, McCaw first allocated the free minutes in any plan to peak usage and the remaining free minutes to off-peak usage, rather than on the 80/20 calling pattern. This allocation methodology understated the rates calculated by McCaw.

#### **6. Airtime**

DRA and McCaw both presented rates that were based on using 120 minutes of airtime. In addition, McCaw presented 3 other scenarios with 60, 180 and 360 minutes of airtime used. For DRA's comparison of McCaw's and DRA's rates table, DRA compared rates at 120 minutes of usage.

Given the different assumptions McCaw and DRA used to derive their tables, it was necessary to develop a common set of assumptions in order to make a valid comparison. The following changes were made to McCaw's original rates table:

1. Corrected rates for New York and Minneapolis (per letter of February 5, 1993 and FAX on February 11, 1993 from Scott Morris, McCaw to Linda Woods, DRA) were inserted.

2. Recalculated McCaw's rates to include amortization of the activation fee over 12 months and to reallocate any free minutes of use based on the 80/20 peak/off-peak calling pattern.

Table 1 (attached) shows McCaw's original cellular rate figures and those same rates after making the above-mentioned adjustments. Including the activation fee and reallocating the free minutes increases the rates that McCaw presented in their original table.

Table 2 (attached) compares the cellular rates tables presented by DRA and by McCaw under a common set of assumptions, as explained previously. Although DRA's rates are still higher than McCaw's, some of the discrepancy has been explained by the use of different assumptions. The remaining difference is due to the choice of plan. DRA's figures show the rates for basic cellular plans in each market, whereas, McCaw's figures show rates for various plans that differ by market. For instance, McCaw used plans in some markets that included 30 minutes of free airtime while in other markets, customers were offered 120 minutes of free airtime. DRA believes it is more valid to review plans that are as similar as possible across all markets and, for that reason, reviewed the rates of basic plans in each market.

Table 2 supports DRA's assertion that no clear link is apparent between a state's rates and its level of regulation. For instance, California regulates the cellular market throughout the state and yet has markets with both high and low rates. Sacramento's cellular rates were among the lowest of all the markets that DRA surveyed. Using McCaw's methodology of selecting the most economical plan for the number of minutes used, DRA contacted Sacramento again and calculated the monthly rate. Even using McCaw's methodology, Sacramento's rates are still among the lowest. DRA remains convinced that regulation is not the cause of high cellular service rates in California. DRA believes that a myriad of factors are at work in California which result in high rates. Those factors include, but are not limited to, the lack of competition in the industry stemming from the duopoly market structure, greater demand for cellular services, higher disposable income in the areas with the highest rates, greater population density and a highly mobile population.

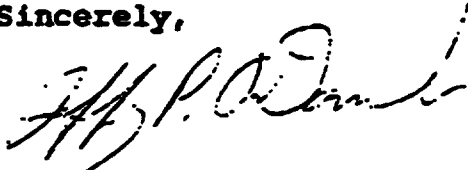
McCaw's assertion that regulation in California and New York is the cause of high cellular service rates in San Francisco, Los Angeles and New York City has not been proven. McCaw has not explained why California has some of the lowest cellular service rates (e.g., Sacramento) or why markets in other regulated states (e.g., Boston) have relatively low rates.

Furthermore, DRA strongly disagrees with McCaw's assertion that "while Sacramento's rates are among the lowest in the country, that fact is irrelevant to whether California's tariffing rates help maintain cellular rates that were originally set at higher levels. . ." (January 11, 1993 letter from James L. Barksdale, McCaw Cellular Communications, Inc. to President

Fessler) As I stated in my testimony before the Senate Energy and Public Utilities Committee on January 12, 1993, California cellular carriers may reduce their cellular rates by up to 10% and have the rate reduction take effect immediately. I would also like to mention that although Sacramento does have relatively low cellular rates, McCaw raised those rates by 20% in 1989.

I sincerely hope that the enclosed analysis satisfactorily explains the differences between DRA's and McCaw's cellular service rate calculations. Additionally, I believe that it's apparent that one cannot conclude from either McCaw's or DRA's cellular rate surveys the cause of high cellular rates in California. If DRA can be of any further assistance, don't hesitate to contact me at (415) 703-3084.

Sincerely,



Jeffrey P. O'Donnell  
Deputy Director, Division of Ratepayer Advocates

**TABLE 1****McCAW'S RATES ADJUSTED FOR  
DRA ASSUMPTIONS****(REGULATED MARKETS ARE IN BOLD ITALICS.)**

CITY	MCCAW		MCCAW(1)	
<b>LOS ANGELES</b>	<b>\$94.68</b>	<b>100.00%</b>	<b>\$98.84</b>	<b>100.00%</b>
<b>SAN FRANCISCO</b>	<b>\$90.50</b>	<b>95.59%</b>	<b>\$92.58</b>	<b>93.67%</b>
<b>NEW YORK</b>	<b>\$89.99</b>	<b>95.05%</b>	<b>\$100.81 *</b>	<b>101.99%</b>
MIAMI	\$80.64	85.17%	\$86.07 *	87.08%
SEATTLE	\$74.71	78.91%	\$81.28	82.23%
DALLAS	\$71.77	75.80%	\$74.69	75.57%
TAMPA	\$70.83	74.81%	\$75.91 *	76.80%
DENVER	\$69.99	73.92%	\$73.32 *	74.18%
PITTSBURGH	\$69.99	73.92%	\$74.15 *	75.02%
<b>BOSTON</b>	<b>\$68.20</b>	<b>72.03%</b>	<b>\$73.33</b>	<b>74.19%</b>
MINNEAPOLIS	\$66.96	70.72%	\$73.41	74.27%
HOUSTON	\$65.97	69.68%	\$72.44 *	73.29%
PHILADELPHIA	\$64.95	68.60%	\$69.53 *	70.35%
WASHINGTON, D.C.	\$60.14	63.52%	\$63.06 *	63.80%
<b>SACRAMENTO</b>	<b>\$54.03</b>	<b>57.07%</b>	<b>\$58.20</b>	<b>58.88%</b>
DETROIT	\$53.20	56.19%	\$55.72 *	56.37%
CHICAGO	\$48.60	51.33%	\$53.84	54.47%

PERCENTAGES ARE RELATIVE TO LOS ANGELES RATES.

\* REQUIRES COMMITMENT TO ONE YEAR CONTRACT

(1) REVISED TO INCLUDE ACTIVATION FEE &amp; ALLOCATION OF FREE MINUTES

**ASSUMPTIONS:**

1. ALL RATES ARE BASED ON 120 MINUTES OF USE (80% PEAK/20% OFF PEAK).
2. RATES FOR BOSTON, HOUSTON, PHILADELPHIA, AND SACRAMENTO WERE ADDED BY DRA USING MCCAW ASSUMPTIONS.

**TABLE 2**

**DRA AND McCAW  
CELLULAR RATE COMPARISON CHART**

**(REGULATED MARKETS ARE IN BOLD ITALICS.)**

<b>CITY</b>	<b>DRA (A)</b>		<b>DRA (B)</b>		<b>MCCA(1)</b>	
<b>LOS ANGELES</b>	<b>\$99.00</b>	<b>100.00%</b>	<b>\$99.00</b>	<b>98.02%</b>	<b>\$98.84</b>	<b>98.05%</b>
<b>NEW YORK</b>	<b>\$99.00</b>	<b>100.00%</b>	<b>\$101.00</b>	<b>100.00%</b>	<b>\$100.81 *</b>	<b>100.00%</b>
<b>PHILADELPHIA</b>	<b>\$97.24</b>	<b>98.22%</b>	<b>\$86.00</b>	<b>85.15%</b>	<b>\$69.53 *</b>	<b>68.97%</b>
<b>SAN FRANCISCO</b>	<b>\$95.00</b>	<b>95.96%</b>	<b>\$95.00</b>	<b>94.06%</b>	<b>\$92.58</b>	<b>91.84%</b>
<b>MIAMI</b>	<b>\$93.00</b>	<b>93.94%</b>	<b>\$92.00</b>	<b>91.09%</b>	<b>\$86.07 *</b>	<b>85.38%</b>
<b>SEATTLE</b>	<b>\$93.00</b>	<b>93.94%</b>	<b>\$95.00</b>	<b>94.06%</b>	<b>\$81.28</b>	<b>80.63%</b>
<b>DENVER</b>	<b>\$83.00</b>	<b>83.84%</b>	<b>\$88.00</b>	<b>87.13%</b>	<b>\$73.32 *</b>	<b>72.73%</b>
<b>DALLAS</b>	<b>\$80.40</b>	<b>81.21%</b>	<b>\$89.35</b>	<b>88.47%</b>	<b>\$74.69</b>	<b>74.09%</b>
<b>HOUSTON</b>	<b>\$77.00</b>	<b>77.78%</b>	<b>\$92.00</b>	<b>91.09%</b>	<b>\$72.44 *</b>	<b>71.86%</b>
<b>MINNEAPOLIS</b>	<b>\$76.00</b>	<b>76.77%</b>	<b>\$76.00</b>	<b>75.25%</b>	<b>\$73.41</b>	<b>72.82%</b>
<b>BOSTON</b>	<b>\$74.00</b>	<b>74.75%</b>	<b>\$78.00</b>	<b>77.23%</b>	<b>\$73.33</b>	<b>72.74%</b>
<b>DETROIT</b>	<b>\$72.44</b>	<b>73.17%</b>	<b>\$70.31</b>	<b>69.61%</b>	<b>\$55.72 *</b>	<b>56.27%</b>
<b>WASHINGTON, D.C.</b>	<b>\$72.00</b>	<b>72.73%</b>	<b>\$73.00</b>	<b>72.28%</b>	<b>\$63.06 *</b>	<b>62.55%</b>
<b>SACRAMENTO</b>	<b>\$60.00</b>	<b>60.61%</b>	<b>\$52.00</b>	<b>51.49%</b>	<b>\$58.20</b>	<b>57.73%</b>
<b>CHICAGO</b>	<b>\$59.00</b>	<b>59.60%</b>	<b>\$62.00</b>	<b>61.39%</b>	<b>\$53.84</b>	<b>53.41%</b>
<b>PITTSBURGH</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>\$74.15 *</b>	<b>73.55%</b>
<b>TAMPA</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>\$75.91 *</b>	<b>75.30%</b>

**PERCENTAGES ARE RELATIVE TO LOS ANGELES RATES.**

**\* REQUIRES COMMITMENT TO ONE YEAR CONTRACT**

**(1) REVISED TO INCLUDE ACTIVATION FEE & ALLOCATION OF FREE MINUTES**

**(A) NON-WIRELINE CARRIER**

**(B) WIRELINE CARRIER**

**ASSUMPTIONS:**

- 1. ALL RATES ARE BASED ON 120 MINUTES OF USE (80% PEAK/20% OFF PEAK).**
- 2. RATES FOR BOSTON, HOUSTON, PHILADELPHIA, AND SACRAMENTO WERE ADDED BY DRA USING MCCA(1) ASSUMPTIONS.**

**FILED**

PUBLIC UTILITIES COMMISSION

**DEC -6 1993**

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**SAN FRANCISCO OFFICE**

NO. \_\_\_\_\_

Investigation on the Commission's )  
own motion into the regulation of ) I.88-11-040  
cellular radiotelephone utilities ) Application 87-02-017  
And Related Matters ) Complaint 86-12-023

**NOTICE OF EX PARTE COMMUNICATION**

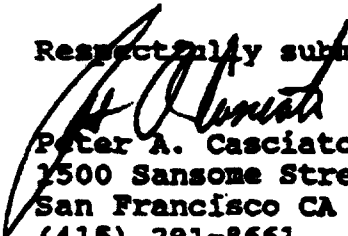
Pursuant to Rule 1.4(a) of the Commission's Rules of Practice and Procedure, the Cellular Reseller's Association, Inc. ("CRA") and Nova Cellular West, Inc. ("Nova"), hereby gives notice of the following ex parte communication. The communication occurred on November 30, 1993 when Peter A. Casciato, attorney for CRA, and Kevin McAllister, President of Nova, a member of CRA met with Commissioner Conlon and his advisor Richard Smith at their San Francisco office at approximately 4:300 p.m. Mr. McAllister provided Commissioner Conlon and Mr. Smith with a copy of the attached printed material which Mr. McAllister stated refuted an ex parte presentation made by U S WEST Cellular of California, Inc. that regulation caused higher rates to consumers in California. The printed material compares US WEST rates in four major U.S. markets, San Diego, Phoenix, Denver and Seattle and notes that the rates are higher in the unregulated states.

In addition, Mr. Casciato advised them that the Commission's bundling decision was good policy because the US WEST position that it kept the price of telephone equipment high was factually inaccurate given the low price of equipment compared with the lack of reduction in basic wholesale and retail rates in



California. To obtain a copy of this notice, please contact  
Katie McHale at: (415) 291-8661.

Respectfully submitted,



Peter A. Casciato, P.C.  
1500 Sansome Street Suite 201  
San Francisco CA 94111  
(415) 291-8661

December 3, 1993

cc: ALJ Michael Galvin

Attorney for Cellular Resellers  
Association, Inc.

This spreadsheet compares US West rates in 4 different markets and at 4 levels of usage. In every case, on every rate plan, San Diego proves to be the LEAST EXPENSIVE.

	San Diego 7am-7pm	Phoenix 6am-8pm	Denver 6am-8pm	Seattle 6am-8pm
Peak/Off hrs				
SECURITY PLAN:				
# of minutes	0	10	10	10
Access	19.95	24.95	24.95	24.95
Peak Airtime	0.73	0.75	0.75	0.75
Off Airtime	0.19	0.75	0.75	0.75
Bill @ 30 min 50/50	33.75			
60/40		39.95	39.95	39.95
% higher than San Diego		15.50%	15.50%	15.50%

OPTIMUM PLAN:				
# of minutes	0	0	0	0
Access	35.00	27.95	24.95	29.95
Peak Airtime	0.38	0.49	0.54	0.58
Off Airtime	0.19	0.25	0.25	0.25
Subminute	No	Yes	Yes	No
Annual	No	Yes	Yes	Yes
Bill @ 100 min 80/20	69.20			
90/10		74.55	76.05	84.65
% higher than San Diego		7.10%	9.00%	18.20%

INTRO PLAN:				
# of minutes	60	75	75	60
Access	49.95	49.95	49.95	49.95
Peak Airtime	0.38	0.48	0.52	0.56
Off Airtime	0.19	0.25	0.25	0.25
Subminute	yes	yes	No*	No*
Annual	No	yes	yes	yes
Bill @ 200 min 80/20	97.83			
90/10		107.07	120.49	133.93
% higher than San Diego		8.60%	18.80%	26.90%

MAXIMIZER PLAN:				
# of minutes	400	400	400	320
Access	139.00	159.95	129.95	129.95
Peak Airtime	0.35	0.42	0.38	0.41
Off Airtime	0.19	0.25	0.25	0.24
Subminute	Yes	Yes	No*	No*
Annual	No	Yes	Yes	Yes
Bill @ 400 min 80/20	139.00			
90/10		159.95	140.34	174.30
% higher than San Diego		13.00%	1%	20.20%

**I. US WEST RETAIL/WHOLESALE RATES HAVE DECLINED  
SUBSTANTIALLY IN RECENT YEARS.**

**RESPONSE:** The bulk of US West's claimed 12% rate reduction occurred between 1990 and 1991. Since 1991, basic rates have dropped less than 2%:

1991 Basic Rates		1993 Basic Rates	
Access	\$35/month	Access	\$35/month
Peak 0-180	.40/min	Peak 0-100	.40/min
181+	.35/min	101-180	.38/min
		181+	.35/min
Off	.20/min	Off 0-100	.20/min
		101-180	.19/min
		181+	.17/min

**Effect on subscriber's bills:**

1991 Basic Rates	vs.	1993 Basic Rates
50 minute subscriber 80/20		
\$ 53.00		\$ 53.00
150 minute subscriber 80/20		
\$ 89.00		\$ 86.30
A reduction of 3%.		
300 minute subscriber 80/20		
\$ 131.00		\$ 129.20
A reduction of 1.3%.		

**Conclusion: Very little change in Basic Rates since 1991!**

**RESPONSE:** Prior to June 1990, the **ONLY** plan was basic. Therefore, a higher percentage of subscribers would fall into other categories.

**RESPONSE:** The only way to achieve a savings of 20-30% is to commit to an annual plans and/or commit to a minimum usage plan.

**RESPONSE:** The Basic rate for resellers has not changed more than 15% in the last 3 years.

1991 Basic rate	1993 Basic Rate
Access \$26.60	26.00
Peak .329	.274
Off .16	.1336

Average Bill		NET DECREASE
180 @ 80/20 79.39	70.25	12%

The only way for resellers to achieve the discounts claimed by US West is to commit to 1 or 2 years contracts.

**Nova Cellular West, Inc.**

**Response to Ex Parte Communication of US West on 9/13/93.**

**II. THE COMMISSION'S TEMPORARY TARIFF PROCEDURES DO NOT WORK TO FACILITATE RAPID IMPLEMENTATION OF NEW RATE PLANS AND RATE REDUCTIONS.**

**RESPONSE:** In the last 8 years, US West has failed to earn even 1 dollar profit at retail (see attachment). All profit generated has been at wholesale. Therefore, wholesale/retail margin requirements do not cause high retail pricing. US West simply wants to remove margin requirements in order to eliminate competition from resellers that have been able to survive on margins that the retail arm of the carrier could not.

**RESPONSE:** The ability of US West and other facilities-based carriers to entice subscribers with gifts will ultimately lead to higher retail rates. As with bundling, the cost of the gift will have to be recaptured in the rate structure.

**RESPONSE:** The temporary tariff procedures are very clear. Commissioner Fessler has eliminated the roadblocks to rate reductions.

**Nova Cellular West, Inc.**

**Response to Ex Parte Communication of US West on 9/13/93.**

**III. THE COMMISSION SHOULD RECIND ITS ANTI-BUNDLING RULES.**

**RESPONSE:** The artificially low pricing of cellular equipment followed by high bills is what chills the cellular market. In spite of PUC's anti-bundling rules, US West continues to tie equipment discounts and rebates to the activation of cellular service (see attachment).

**RESPONSE:** Seattle, Denver and Phoenix have much less regulation and allow bundling. Yet, San Diego has the **LEAST** expensive service rates. Therefore, the expenses of bundling (equipment below cost and line commissions) are recouped by the higher rates, fewer choices and annual contracts.

# Choose the cellular services and pricing that fit your needs best.

Why choose between package and variable rate plans?

Variable Rate Plans are for multiple phone accounts or for people whose cellular airtime usage varies from month to month.

Package Plans are designed to offer the highest value for customers who have fairly consistent usage patterns. The biggest difference between Package Plans is the amount of airtime (phone usage time) they include. If you plan to use your phone a lot, you'll save money by selecting a plan that includes more airtime.

You can use the table below to estimate the amount of airtime you'll use. Keep in mind that if your needs or usage change, you can always switch to another plan.

How many minutes per day...	
If you think you'll use your cellular phone about this many minutes per day...	...you'll use about this many minutes per month
5	100
10	200
15	300
20	400
25	500
30	600
40	800
50	1000
60	1200

\* For business use only, based on an average of 22 business days per month. Use this table to estimate your monthly airtime needs.

## Package Plans

### The Intro Plan

For people who want the convenience of a plan that includes 60 minutes of local airtime in the monthly access charge.

Monthly Access: \$49.95

Airtime per minute	Peak	Off-Peak
0-60 minutes	Included	Included
61 minutes and up	38¢	19¢

\* Includes Sub-Minute Billing.

TRDM

### The Time Manager Plan

For people who plan to make daily use of their cellular phone. Includes 200 minutes of local airtime (about 10 minutes per business day).

Monthly Access: \$89.00\*

Airtime per minute	Peak	Off-Peak
0-100 minutes	Included	Included
101-200 minutes	Included	Included
201 minutes and up	38¢	19¢

\* Includes Sub-minute Billing.

TRDM

### The Time Maximizer Plan

For people who plan to make frequent use of their cellular phone. Includes 400 minutes of local airtime (about 20 minutes per business day).

Monthly Access: \$139.00\*

Airtime per minute	Peak	Off-Peak
0-100 minutes	Included	Included
101-200 minutes	Included	Included
201-400 minutes	Included	Included
400 minutes and up	35¢	19¢

\* Includes Sub-minute Billing.

MAXM

\* Pending P.U.C. approval.

## Variable Rate Plans\*

For multiple phone accounts or people whose cellular usage varies significantly each month.

Optimum A Monthly Access: \$35.00\*

Airtime per minute	Peak	Off-Peak
0-100 minutes	40¢	20¢
Quantity Airtime Discounted		
100-180 minutes	5.0%	5.0%
181 minutes and up	12.5%	12.5%

TRDM

Optimum B Monthly Access: \$37.95\*

Airtime Pricing is the same as Optimum A. Additional benefits include Sub-Minute Billing.

MAXM

Optimum C Monthly Access: \$35.00\*

Pricing is the same as Optimum A except this plan requires an annual contract. Additional benefits includes Sub-Minute Billing and an additional 2.5% discount when using between 100-180 minutes a month.

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\* Multiple Phone Discounts available — contact your U S WEST Cellular representative for details.

### The Security Plan

For people who plan to use the phone for security use only.

Monthly Access: \$19.95

Airtime per minute	Peak	Off-Peak
0-100 minutes	73¢	20¢

\* Expires 12/31/93

\*\* Limited use subscribers will find greater value in the Intro Plan.

TRDM

\* Price plan name changes pending P.U.C. approval.

There is a one-time charge of \$35 to establish service with any of these plans. There is a \$15 service charge to voluntarily restore service, voluntarily suspend service, or change an access number. Monthly service access charge is billed in advance. All plans have a one-minute minimum per call. All prices subject to change without notice.

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# Choose the cellular services and pricing that fit your needs best

No two cellular users are alike. Which is why we offer a choice of cellular service plans. The biggest difference between them is the amount of airtime (phone usage time) they include.

If you plan to use your phone a lot, you'll save money by selecting a plan that includes more airtime. You can use the table below to estimate it. Keep in mind that if your needs or usage change, you can always switch to another plan.

## How to estimate your airtime

If you think you'll use your cellular phone about this many minutes per day... you'll use about this many minutes per month.

5	100
10	200
15	300
20	400
25	500
30	600
40	800
50	1000
60	1200

\* Per business weekday, based on an average of 22 business days per month. Use this information to choose the service plan that fits your needs best.

Once you've selected a plan based on your anticipated airtime, you may want to add optional cellular services to those that are part of the plan. These services are listed on the back of this brochure.



## The Maximum Plan

For people who plan to make daily use of their cellular phone, includes 400 minutes of local airtime (about 20 minutes per business day). Requires an annual contract.

Monthly Package Price: \$159.95\*

Airtime	Included	Included
0-400 minutes		
401-600 minutes	42¢	25¢
601-1000 minutes	38¢	25¢
1001 minutes and up	36¢	25¢

\* Includes Sub-Minute Billing and Call Forwarding. MAXC

## The Budget Plan

For people who plan to make average use of their cellular phone, includes 150 minutes of local airtime (about 8 minutes per business day). Requires an annual contract.

Monthly Package Price: \$74.95\*

Airtime	Included	Included
0-150 minutes		
151-400 minutes	42¢	25¢
401-600 minutes	41¢	25¢
601-1000 minutes	39¢	25¢
1001 minutes and up	37¢	25¢

\* Includes Sub-Minute Billing and Call Forwarding. BAC

There is a one-time charge of \$40 to establish service with any of these plans. There is a \$15 service charge to voluntarily suspend service. Monthly package price is billed in advance, and will not be refunded for termination of service prior to the end of your billing cycle. All prices subject to change without notice.

## The Convenience Plan

For people who want the convenience of a plan with airtime included in the monthly access charge. Includes 75 minutes of local airtime (about 4 minutes per business day). Requires an annual contract.

Monthly Package Price: \$49.95\*

Airtime	Included	Included
0-75 minutes		
76-100 minutes	48¢	25¢
101-200 minutes	46¢	25¢
201-400 minutes	44¢	25¢
401-600 minutes	42¢	25¢
601-1000 minutes	40¢	25¢
1001 minutes and up	38¢	25¢

\* Includes Sub-Minute Billing and Call Forwarding. BAC

## The Optimum Plan

For people who plan to make occasional use of their cellular phone and prefer a lower monthly package price. Requires an annual contract.

Monthly Package Price: \$27.95\*

Airtime	Included	Included
0-100 minutes	49¢	25¢
101-200 minutes	48¢	25¢
201-400 minutes	44¢	25¢
401-600 minutes	42¢	25¢
601-1000 minutes	38¢	25¢
1001 minutes and up	36¢	25¢

\* Includes Sub-Minute Billing and Call Forwarding. OPIC

## The Security Plan

For limited use callers who want a cellular phone primarily for security, includes 10 minutes of ON-Peak airtime and AIR RESCUE\*\* emergency roadside service\*\* at no additional charge.

Monthly Package Price: \$24.95\*

Airtime per minute: 75¢, Peak and ON-Peak

\* Does not include Call Forwarding, Call Waiting, Conference Calling and Sub-Minute Billing.

\*\* AIR RESCUE service is not available when driving vehicles with over a one-ton rating, motorhomes, boats and trailers.



# Choose the cellular services and pricing that fit your needs best.

No two cellular users are alike. Which is why we offer a choice of cellular service plans. The biggest difference between them is the amount of airtime (phone usage time) they include.

If you plan to use your phone a lot, you'll save money by selecting a plan that includes more airtime. You can use the table below to estimate it. Keep in mind that if your needs or usage change, you can always switch to another plan.

How to estimate your airtime	
If you think you'll use your cellular phone about this many minutes per day...	...you'll use about this many minutes per month.
5	150
10	300
15	450
20	600
25	750
30	900
40	1200
50	1500
60	1800

\* For business weekdays, based on an average of 20 business days per month. Use this information to choose the service plan that fits your needs best.

Once you've selected a plan based on your anticipated airtime, you may want to add optional cellular services to those that are part of the plan. These services are listed on the back of this brochure.

### The Maximize Plan

For people who use their cellular phone everyday. Includes 180 minutes of local airtime (about 40 minutes per business day). Your choice of USWEST Cellular Message Center or Message Center Alert. Requires an annual contract.

**Monthly Package Price: \$229.95\***

Airtime per minute	Peak	Off-Peak
0-800 minutes	Included	Included
801 minutes and up	34¢	25¢

\* Includes Call Forwarding and Voice Messaging.

### The Moderate Plan

For people who plan to make daily use of their phone. Includes 400 minutes of local airtime (about 8 minutes per business day). Requires an annual contract.

**Monthly Package Price: \$129.95**

Airtime per minute	Peak	Off-Peak
0-400 minutes	Included	Included
401-600 minutes	30¢	25¢
601-1000 minutes	30¢	25¢
1001 minutes and up	34¢	25¢

### The Budget Plan

For people who plan to make average use of their cellular phone. Includes 150 minutes of local airtime (about 8 minutes per business day). Requires an annual contract.

**Monthly Package Price: \$69.95**

Airtime per minute	Peak	Off-Peak
0-150 minutes	Included	Included
151-300 minutes	44¢	25¢
301-600 minutes	30¢	25¢
601-1000 minutes	30¢	25¢
1001 minutes and up	34¢	25¢

### The Convenience Plan

For people who want the convenience of a plan with basic airtime included in the monthly access charge. Includes 75 minutes of local airtime (about 4 minutes per business day). Requires an annual contract.

**Monthly Package Price: \$49.95**

Airtime per minute	Peak	Off-Peak
0-75 minutes	Included	Included
76-200 minutes	52¢	25¢
201-600 minutes	40¢	25¢
601 minutes and up	44¢	25¢

### The Occasional Plan

For people who plan to make occasional use of their cellular phone and prefer a lower monthly package price. Includes 30 minutes of local airtime. Requires an annual contract.

**Monthly Package Price: \$36.95**

Airtime per minute	Peak	Off-Peak
0-30 minutes	Included	Included
31-200 minutes	54¢	25¢
201-600 minutes	40¢	25¢
601 minutes and up	44¢	25¢

### The Security Plan

For limited use callers who want a cellular phone primarily for security. Includes 18 minutes of airtime and MR. RESCUE emergency roadside service at no additional charge.\*\*

**Monthly Package Price: \$24.95\***

**Airtime per minute: 75¢, Peak and Off-Peak**

\* Does not include Call Forwarding, Call Waiting, Conference Calling and Three-Way Calling.

\*\* MR. RESCUE service is not available when driving vehicles with over a one-ton weight, motorcycles, boats and trailers.

There is a one-time charge of \$40 to establish service with any of these plans. There is a \$15 service charge to voluntarily suspend service. Monthly package price is billed in advance, and will not be refunded for termination of service prior to the end of your billing cycle. All prices subject to change without notice.